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*DIVISION C—ENERGY AND WATER DEVELOPMENT APPROPRIATIONS
ACT, 2005*

XEROX

~~DIVISION C~~

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL ~~WORKS~~

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects, re-study of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$144,500,000, to remain available until expended: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use ~~\$400,000~~ for \$ 300,000 the continued preconstruction, engineering, and design of Waikiki Beach, Oahu, Hawaii, the project to be designed and evaluated, as authorized and that any recommenda-

1 tions for a National Economic Development Plan shall be
2 accepted notwithstanding the extent of recreation benefits
3 supporting the project features, in view of the fact that
4 recreation is extremely important in sustaining and in-
5 creasing the economic well-being of the State of Hawaii
6 and the nation: *Provided further*, That in conducting the
7 Southwest Valley Flood Damage Reduction Study, Albu-
8 querque, New Mexico, the Secretary of the Army, acting
9 through the Chief of Engineers, shall include an evalua-
10 tion of flood damage reduction measures that would other-
11 wise be excluded from the feasibility analysis based on
12 policies regarding the frequency of flooding, the drainage
13 areas, and the amount of runoff: *Provided further*, That
14 for the Ohio Riverfront, Cincinnati, Ohio, project, the cost
15 of planning and design undertaken by non-Federal inter-
16 ests shall be credited toward the non-Federal share of
17 project design costs.

18 CONSTRUCTION, GENERAL

19 For expenses necessary for the construction of river
20 and harbor, flood control, shore protection and storm
21 damage reduction, aquatic ecosystem restoration, and re-
22 lated projects authorized by law; for conducting detailed
23 studies, and plans and specifications, of such projects (in-
24 cluding those for development with participation or under
25 consideration for participation by States, local govern-
26 ments, or private groups) authorized or made eligible for

1 selection by law (but such detailed studies, and plans and
2 specifications, shall not constitute a commitment of the
3 Government to construction); and for the benefit of feder-
4 ally listed species to address the effects of civil works
5 projects owned or operated by the United States Army
6 Corps of Engineers, \$1,796,089,000, to remain available
7 until expended, of which such sums as are necessary to
8 cover the Federal share of construction costs for facilities
9 under the Dredged Material Disposal Facilities program
10 shall be derived from the Harbor Maintenance Trust Fund
11 as authorized by Public Law 104-303; and of which such
12 sums as are necessary pursuant to Public Law 99-662
13 shall be derived from the Inland Waterways Trust Fund,
14 to cover one-half of the costs of construction and rehabili-
15 tation of inland waterways projects, (including the reha-
16 bilitation costs for Lock and Dam 11, Mississippi River,
17 Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock
18 and Dam 24, Mississippi River, Illinois and Missouri; and
19 Lock and Dam 3, Mississippi River, Minnesota) shall be
20 derived from the Inland Waterways Trust Fund: *Provided,*
21 That using \$12,500,000 of the funds appropriated herein,
22 the Secretary of the Army, acting through the Chief of
23 Engineers, is directed to continue construction of the Dal-
24 las Floodway Extension, Texas, project, including the
25 Cadillac Heights feature, generally in accordance with the

1 Chief of Engineers report dated December 7, 1999: *Pro-*
2 *vided further*, That the Secretary of the Army is directed
3 to accept advance funds, pursuant to section 11 of the
4 River and Harbor Act of 1925, from the non-Federal
5 sponsor of the Los Angeles Harbor, California, project au-
6 thorized by section 101(b)(5) of Public Law 106-541:
7 *Provided further*, That the Secretary of the Army is di-
8 rected to accept advance funds, or any portion thereof,
9 pursuant to section 11 of the River and Harbor Act of
10 1925, from the non-Federal sponsor of the Oakland Har-
11 bor, California, project authorized by section 101(a)(7) of
12 Public Law 106-53: *Provided further*, That the Secretary
13 of the Army, acting through the Chief of Engineers, is
14 directed to use \$500,000 of the funds provided herein to
15 continue construction of the Hawaii Water Management
16 Project: *Provided further*, That the Secretary of the Army,
17 acting through the Chief of Engineers, is directed to use
18 \$3,000,000 of the funds appropriated herein to continue
19 construction of the navigation project at Kaumalapau
20 Harbor, Hawaii: *Provided further*, That the Secretary of
21 the Army, acting through the Chief of Engineers, is di-
22 rected to use \$3,000,000 of the funds provided herein for
23 the Dam Safety and Seepage/Stability Correction Pro-
24 gram to complete construction of seepage control features
25 and repairs to the tainter gates at Waterbury Dam,

1 Vermont: *Provided further*, That the Secretary of the
2 Army, acting through the Chief of Engineers, is directed
3 to use \$9,000,000 of the funds appropriated herein to pro-
4 ceed with planning, engineering, design or construction of
5 the Grundy, Buchanan County, and Dickenson County,
6 Virginia, elements of the Levisa and Tug Forks of the Big
7 Sandy River and Upper Cumberland River Project: *Pro-*
8 *vided further*, That the Secretary of the Army, acting
9 through the Chief of Engineers, is directed to use
10 \$15,000,000 of the funds appropriated herein to continue
11 with the planning, engineering, design or construction of
12 the Lower Mingo County, Upper Mingo County, Wayne
13 County, McDowell County, West Virginia, elements of the
14 Levisa and Tug Forks of the Big Sandy River and Upper
15 Cumberland River Project: *Provided further*, That the Sec-
16 retary of the Army, acting through the Chief of Engineers,
17 is directed to continue the Dickenson County Detailed
18 Project Report as generally defined in Plan 4 of the Hun-
19 tington District Engineer's Draft Supplement to the sec-
20 tion 202 General Plan for Flood Damage Reduction dated
21 April 1997, including all Russell Fork tributary streams
22 within the County and special considerations as may be
23 appropriate to address the unique relocations and resettle-
24 ment needs for the flood prone communities within the
25 County: *Provided further*, That the Secretary of the Army,

1 acting through the Chief of Engineers, is directed to use
2 \$8,750,000 of the funds appropriated herein for the Clo-
3 ver Fork, City of Cumberland, Town of Martin, Pike
4 County (including Levisa Fork and Tug Fork Tribu-
5 taries), Bell County, Harlan County in accordance with
6 the Draft Detailed Project Report dated January 2002,
7 Floyd County, Martin County, Johnson County, and Knox
8 County, Kentucky, detailed project report, elements of the
9 Levisa and Tug Forks of the Big Sandy River and Upper
10 Cumberland River: *Provided further*, That the Secretary
11 of the Army, acting through the Chief of Engineers, is
12 directed to continue with the construction of the Seward
13 Harbor, Alaska, project, in accordance with the Report of
14 the Chief of Engineers, dated June 8, 1999, and the eco-
15 nomic justification contained therein: *Provided further*,
16 That the Secretary of the Army, acting through the Chief
17 of Engineers, is directed to continue with the construction
18 of the False Pass, Alaska, project, in accordance with the
19 Report of the Chief of Engineers, dated December 29,
20 2000: *Provided further*, That the Secretary of the Army,
21 acting through the Chief of Engineers, is directed to pro-
22 ceed with construction of the Sand Point Harbor, Alaska
23 project, in accordance with the Report of the Chief of En-
24 gineers, dated October 13, 1998, and the economic jus-
25 tification contained therein: *Provided further*, That the

1 Secretary of the Army, acting through the Chief of Engi-
2 neers, is directed to design and construct modifications to
3 the Federal navigation project at Thomsen Harbor, Sitka,
4 Alaska, authorized by Section 101 of the Water Resources
5 Development Act of 1992: *Provided further*, That the Sec-
6 retary of the Army, acting through the Chief of Engineers,
7 shall correct the design deficiency at Thomsen Harbor,
8 Sitka, Alaska, by adding to, or extending, the existing
9 breakwaters to reduce wave and swell motion within the
10 harbor at an additional cost of \$1,000,000 at full Federal
11 expense: *Provided further*, That the Secretary of the Army,
12 acting through the Chief of Engineers, is directed and au-
13 thorized to continue the work to replace and upgrade the
14 dam and all connections to the existing system at Kake,
15 Alaska: *Provided further*, That the Secretary of the Army,
16 acting through the Chief of Engineers, is directed to con-
17 tinue with the construction of the Wrangell Harbor, Alas-
18 ka, project in accordance with the Chief of Engineer's re-
19 port dated December 23, 1999: *Provided further*, That the
20 Secretary of the Army, acting through the Chief of Engi-
21 neers, is directed to proceed with the construction of the
22 New York and New Jersey Harbor project, 50-foot deep-
23 ening element, upon execution of the Project Cooperation
24 Agreement: *Provided further*, That no funds made avail-
25 able under this Act or any other Act for any fiscal year

1 may be used by the Secretary of the Army to carry out
2 the construction of the Port Jersey element of the New
3 York and New Jersey Harbor or reimbursement to the
4 Local Sponsor for the construction of the Port Jersey ele-
5 ment until commitments for construction of container
6 handling facilities are obtained from the non-Federal
7 sponsor for a second user along the Port Jersey element:
8 *Provided further*, That the Secretary of the Army, acting
9 through the Chief of Engineers, is directed to use funds
10 appropriated for the navigation project, Tampa Harbor,
11 Florida, to carry out, as part of the project, construction
12 of passing lanes in an area approximately 3.5 miles long,
13 centered on Tampa Bay Cut B, if the Secretary deter-
14 mines that such construction is technically sound, environ-
15 mentally acceptable, and cost effective: *Provided further*,
16 That using \$750,000 of the funds appropriated herein, the
17 Secretary of the Army, acting through the Chief of Engi-
18 neers, is authorized and directed to plan, design, and ini-
19 tiate reconstruction of the Cape Girardeau, Missouri,
20 project, originally authorized by the Flood Control Act of
21 1950, at an estimated total cost of \$9,000,000, with cost
22 sharing on the same basis as cost sharing for the project
23 as originally authorized, if the Secretary determines that
24 the reconstruction is technically sound and environ-
25 mentally acceptable: *Provided further*, That the planned

1 reconstruction shall be based on the most cost-effective en-
2 gineering solution and shall require no further economic
3 justification: *Provided further*, That the Secretary of the
4 Army, acting through the Chief of Engineers, is directed
5 to proceed without further delay with work on the perma-
6 nent bridge to replace Folsom Bridge Dam Road, Folsom,
7 California, as authorized by the Energy and Water Devel-
8 opment Appropriations Act, 2004 (Public Law 108-137),
9 and, of the \$8,000,000 available for the American River
10 Watershed (Folsom Dam Mini-Raise), California, project,
11 up to \$5,000,000 of those funds be directed for the perma-
12 nent bridge, with all remaining devoted to the Mini-Raise:
13 *Provided further*, That the Secretary of the Army is di-
14 rected to use \$1,365,000 of the funds appropriated herein
15 to construct a project for flood control, Cass River,
16 Spaulding Township, Michigan, pursuant to section 205
17 of the Flood Control Act of 1948 (33 U.S.C. 701s), not-
18 withstanding that the benefits of the project may not ex-
19 ceed the estimated costs of the project: *Provided further*,
20 That the non-Federal interest for the project shall receive
21 credit towards its share of project costs in the amount of
22 \$345,000 for work carried out by the non-Federal interest
23 on the project prior to entering into a project cooperation
24 agreement: *Provided further*, That the Secretary of the
25 Army, acting through the Chief of Engineers, is directed

1 to undertake and fund a demonstration project utilizing
2 the Bidlocker system of escrowing contract bid documents/ : PROVIDED
3 The system should provide a method of securing bidder FURTHER THAT,
4 documents prior to the award of the contracts, thus allow-
5 ing the contractor to provide those documents to the Gov-
6 ernment in the case of disputes/ : PROVIDED FURTHER THAT,
7 project should include use of the system on at least three
8 contracts/ : PROVIDED FURTHER THAT,
9 project shall be provided within one year of the date of
10 enactment of this Act.

11 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,
12 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MIS-
13 SISSIPPI, MISSOURI, AND TENNESSEE

14 For expenses necessary for the flood damage reduc-
15 tion program for the Mississippi River alluvial valley below
16 Cape Girardeau, Missouri, as authorized by law,
17 ~~\$324,504,000~~; to remain available until expended: Pro- ⁰ \$324,504,000
18 vided, That the Secretary of the Army, acting through the
19 Chief of Engineers, using \$12,000,000 of the funds pro-
20 vided herein, is directed to continue design and real estate
21 activities and to initiate the pump supply contract for the
22 Yazoo Basin, Yazoo Backwater Pumping Plant, Mis-
23 sissippi: *Provided further*, That the pump supply contract
24 shall be performed by awarding continuing contracts in
25 accordance with 33 U.S.C. 621: *Provided further*, That the
26 Secretary of the Army, acting through the Chief of Engi-

1 neers is directed, with \$500,000 appropriated herein, to
2 continue construction of water withdrawal features of the
3 Grand Prairie, Arkansas, project.

4 OPERATION AND MAINTENANCE

5 For expenses necessary for the operation, mainte-
6 nance, and care of existing river and harbor, flood and
7 storm damage reduction, aquatic ecosystem restoration,
8 and related projects authorized by law; for the benefit of
9 federally listed species to address the effects of civil works
10 projects owned or operated by the United States Army
11 Corps of Engineers; for providing security for infrastruc-
12 ture owned and operated by, or on behalf of, the United
13 States Army Corps of Engineers, including administrative
14 buildings and facilities, laboratories, and the Washington
15 Aqueduct; for the maintenance of harbor channels pro-
16 vided by a State, municipality, or other public agency that
17 serve essential navigation needs of general commerce,
18 where authorized by law; and for surveys and charting of
19 northern and northwestern lakes and connecting waters,
20 clearing and straightening channels, and removal of ob-
21 structions to navigation, \$1,959,101,000, to remain avail-
22 able until expended, of which such sums as are necessary
23 to cover the Federal share of operation and maintenance
24 costs for coastal harbors and channels shall be derived
25 from the Harbor Maintenance Trust Fund, pursuant to
26 Public Law 99-662 may be derived from that fund; of

1 which such sums as become available from the special ac-
2 count for the United States Army Corps of Engineers es-
3 tablished by the Land and Water Conservation Act of
4 1965, as amended (16 U.S.C. 460l-6a(i)), may be derived
5 from that account for resource protection, research, inter-
6 pretation, and maintenance activities related to resource
7 protection in the areas at which outdoor recreation is
8 available; and of which such sums as become available
9 under section 217 of the Water Resources Development
10 Act of 1996, Public Law 104-303, shall be used to cover
11 the cost of operation and maintenance of the dredged ma-
12 terial disposal facilities for which fees have been collected:
13 *Provided*, That utilizing funds appropriated herein, for the
14 Intracoastal Waterway, Delaware River to Chesapeake
15 Bay, Delaware and Maryland, the Secretary of the Army,
16 acting through the Chief of Engineers, is directed to reim-
17 burse the State of Delaware for normal operation and
18 maintenance costs incurred by the State of Delaware for
19 the SR1 Bridge from station 58+00 to station 293+00
20 between October 1, 2003, and September 30, 2004: *Pro-*
21 *vided further*, That the Secretary of the Army, acting
22 through the Chief of Engineers, is directed to use funds
23 appropriated herein to rehabilitate the existing dredged
24 material disposal site for the project for navigation,
25 Bodega Bay Harbor, California, and to continue mainte-

1 nance dredging of the Federal channel: *Provided further*,
2 That the Secretary shall make suitable material excavated
3 from the Bodega Bay Harbor, California, disposal site as
4 part of the rehabilitation effort available to the non-Fed-
5 eral sponsor, at no cost to the Federal Government, for
6 use by the non-Federal sponsor in the development of pub-
7 lic facilities: *Provided further*, That the Secretary of the
8 Army, acting through the Chief of Engineers, is author-
9 ized to undertake, at full federal expense, a detailed eval-
10 uation of the Albuquerque levees for purposes of deter-
11 mining structural integrity, impacts of vegetative growth,
12 and performance under current hydrological conditions:
13 *Provided further*, That using \$175,000 provided herein,
14 the Secretary of the Army, acting through the Chief of
15 Engineers is authorized to remove the sunken vessel State
16 of Pennsylvania from the Christina River in Delaware:
17 *Provided further*, That the Corps of Engineers shall not
18 allocate any funds to deposit dredged material along the
19 Laguna Madre portion of the Gulf Intracoastal Waterway
20 except at the placement areas specified in the Dredged
21 Material Management Plan in section 2.11 of the Final
22 Environmental Impact Statement for Maintenance Dredg-
23 ing of the Gulf Intracoastal Waterway, Laguna Madre,
24 Texas, Nueces, Kleberg, Kenedy, Willacy, and Cameron
25 Counties, Texas, prepared by the Corps of Engineers

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1 dated September 2003: *Provided further*, That nothing in
2 the above proviso shall prevent the Corps of Engineers
3 from performing necessary maintenance operations along
4 the Gulf Intracoastal Waterway if the following conditions
5 are met: if the Corps proposes to use any placement areas
6 that are not currently specified in the Dredged Material
7 Management Plan and failure to use such alternative
8 placement areas will result in the closure of any segment
9 of the Gulf Intracoastal Waterway, then such proposal
10 shall be analyzed in an Environmental Impact Statement
11 (EIS) and comply with all other applicable requirements
12 of the National Environmental Policy Act, 42 U.S.C.
13 4321, et seq., and all other applicable State and Federal
14 laws, including the Clean Water Act, 33 U.S.C. 1251 et
15 seq., the Endangered Species Act, 16 U.S.C. 1531 et seq.,
16 and the Coastal Zone Management Act, 16 U.S.C. 1451
17 et seq.: *Provided further*, That, of the funds made avail-
18 able, \$7,000,000 is to be used to perform work authorized
19 in Section 136 of Public Law 108-357.

20 REGULATORY PROGRAM

21 For expenses necessary for administration of laws
22 pertaining to regulation of navigable waters and wetlands,
23 \$145,000,000, to remain available until expended.

24 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

25 For expenses necessary to clean up contamination
26 from sites in the United States resulting from work per-

1 formed as part of the Nation's early atomic energy pro-
2 gram, \$165,000,000, to remain available until expended.

3 GENERAL EXPENSES

4 For expenses necessary for general administration
5 and related civil works functions in the headquarters of
6 the United States Army Corps of Engineers, the offices
7 of the Division Engineers, the Humphreys Engineer Cen-
8 ter Support Activity, the Institute for Water Resources,
9 the United States Army Engineer Research and Develop-
10 ment Center, and the United States Army Corps of Engi-
11 neers Finance Center, ~~\$168,500,000~~, to remain available *\$167,000,000*
12 until expended: *Provided*, That no part of any other appro-
13 priation provided in title I of this Act shall be available
14 to fund the civil works activities of the Office of the Chief
15 of Engineers or the civil works executive direction and
16 management activities of the division offices: *Provided fur-*
17 *ther*, That none of these funds shall be available to support
18 an office of congressional affairs within the executive of-
19 fice of the Chief of Engineers.

20 OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL
21 WORKS)

22 For expenses necessary for the Office of Assistant
23 Secretary of the Army (Civil Works), as authorized by 10
24 U.S.C. 3016(b)(3), \$4,000,000.

1 ADMINISTRATIVE PROVISIONS

2 Appropriations in this title shall be available for offi-
3 cial reception and representation expenses (not to exceed
4 \$5,000); and during the current fiscal year the Revolving
5 Fund, Corps of Engineers, shall be available for purchase
6 (not to exceed 100 for replacement only) and hire of pas-
7 senger motor vehicles.

8 GENERAL PROVISIONS

9 CORPS OF ENGINEERS—CIVIL

10 SEC. 101. Beginning in fiscal year 2005 and there-
11 after, agreements proposed for execution by the Assistant
12 Secretary of the Army for Civil Works or the United
13 States Army Corps of Engineers after the date of the en-
14 actment of this Act pursuant to section 4 of the Rivers
15 and Harbor Act of 1915, Public Law 64-291; section 11
16 of the River and Harbor Act of 1925, Public Law 68-
17 585; the Civil Functions Appropriations Act, 1936, Public
18 Law 75-208; section 215 of the Flood Control, Act of
19 1968, as amended, Public Law 90-483; sections 104, 203,
20 and 204 of the Water Resources Development Act of
21 1986, as amended, Public Law 99-662; section 206 of the
22 Water Resources Development Act of 1992, as amended,
23 Public Law 102-580; section 211 of the Water Resources
24 Development Act of 1996, Public Law 104-303; and any
25 other specific project authority, shall be limited to credits
26 and reimbursements per project not to exceed

1 \$10,000,000 in each fiscal year, and total credits and re-
2 imbursements for all applicable projects not to exceed
3 \$50,000,000 in each fiscal year, except that for environ-
4 mental infrastructure projects, the \$10,000,000 limitation
5 shall apply to each state wherein such projects are under-
6 taken.

7 SEC. 102. None of the funds appropriated in this or
8 any other Act may be used by the United States Army
9 Corps of Engineers to support activities related to the
10 proposed Ridge Landfill in Tuscarawas County, Ohio.

11 SEC. 103. None of the funds appropriated in this or
12 any other Act shall be used to demonstrate or implement
13 any plans divesting or transferring any Civil Works mis-
14 sions, functions, or responsibilities of the United States
15 Army Corps of Engineers to other government agencies
16 without specific direction in a subsequent Act of Con-
17 gress.

18 SEC. 104. ALAMOGORDO, NEW MEXICO. The project
19 for flood protection at Alamogordo, New Mexico, author-
20 ized by the Flood Control Act of 1962 (Public Law 87-
21 874), is modified to authorize and direct the Secretary to
22 construct a flood detention basin to protect the north side
23 of the City of Alamogordo, New Mexico, from flooding.
24 The flood detention basin shall be constructed to provide
25 protection from a 100-year flood event. The project cost

1 share for the flood detention basin shall be consistent with
2 section 103(a) of the Water Resources Development Act
3 of 1986, notwithstanding section 202(a) of the Water Re-
4 sources Development Act of 1996.

5 SEC. 105. None of the funds appropriated in this or
6 any other Act may be used by the United States Army
7 Corps of Engineers to support activities related to the
8 proposed Indian Run Sanitary Landfill in Sandy Town-
9 ship, Stark County, Ohio.

10 SEC. 106. ST. GEORGES BRIDGE, DELAWARE. None
11 of the funds made available in this Act may be used to
12 carry out any activity relating to closure or removal of
13 the St. Georges Bridge across the Intracoastal Waterway,
14 Delaware River to Chesapeake Bay, Delaware and Mary-
15 land, including a hearing or any other activity relating to
16 preparation of an environmental impact statement con-
17 cerning the closure or removal.

18 SEC. 107. WATER REALLOCATION, LAKE CUM-
19 BERLAND, KENTUCKY. (a) IN GENERAL.—Subject to sub-
20 section (b), none of the funds made available by this Act
21 may be used to carry out any water reallocation project
22 or component under the Wolf Creek Project, Lake Cum-
23 berland, Kentucky, authorized under the Act of June 28,
24 1938 (52 Stat. 1215, chapter 795) and the Act of July
25 24, 1946 (60 Stat. 636, chapter 595).

1 (b) EXISTING REALLOCATIONS.—Subsection (a) shall
2 not apply to any water reallocation for Lake Cumberland,
3 Kentucky, that is carried out subject to an agreement or
4 payment schedule in effect on the date of enactment of
5 this Act.

6 SEC. 108. LAKE TAHOE BASIN RESTORATION, NE-
7 VADA AND CALIFORNIA. (a) DEFINITION.—In this section,
8 the term “Lake Tahoe Basin” means the entire watershed
9 drainage of Lake Tahoe including that portion of the
10 Truckee River 1,000 feet downstream from the U.S. Bu-
11 reau of Reclamation dam in Tahoe City, California.

12 (b) ESTABLISHMENT OF PROGRAM.—The Secretary
13 may establish a program for providing environmental as-
14 sistance to non-Federal interests in Lake Tahoe Basin.

15 (c) FORM OF ASSISTANCE.—Assistance under this
16 section may be in the form of planning, design, and con-
17 struction assistance for water-related environmental infra-
18 structure and resource protection and development
19 projects in Lake Tahoe Basin—

- 20 (1) urban stormwater conveyance, treatment
21 and related facilities;
22 (2) watershed planning, science and research;
23 (3) environmental restoration; and
24 (4) surface water resource protection and devel-
25 opment.

1 (d) PUBLIC OWNERSHIP REQUIREMENT.—The Sec-
2 retary may provide assistance for a project under this sec-
3 tion only if the project is publicly owned.

4 (e) LOCAL COOPERATION AGREEMENT.—

5 (1) IN GENERAL.—Before providing assistance
6 under this section, the Secretary shall enter into a
7 local cooperation agreement with a non-Federal in-
8 terest to provide for design and construction of the
9 project to be carried out with the assistance.

10 (2) REQUIREMENTS.—Each local cooperation
11 agreement entered into under this subsection shall
12 provide for the following:

13 (A) PLAN.—Development by the Secretary,
14 in consultation with appropriate Federal and
15 State and Regional officials, of appropriate en-
16 vironmental documentation, engineering plans
17 and specifications.

18 (B) LEGAL AND INSTITUTIONAL STRUC-
19 TURES.—Establishment of such legal and insti-
20 tutional structures as are necessary to ensure
21 the effective long-term operation of the project
22 by the non-Federal interest.

23 (3) COST SHARING.—

24 (A) IN GENERAL.—The Federal share of
25 project costs under each local cooperation

1 agreement entered into under this subsection
2 shall be 75 percent. The Federal share may be
3 in the form of grants or reimbursements of
4 project costs.

5 (B) CREDIT FOR DESIGN WORK.—The
6 non-Federal interest shall receive credit for the
7 reasonable costs of planning and design work
8 completed by the non-Federal interest before
9 entering into a local cooperation agreement with
10 the Secretary for a project.

11 (C) LAND, EASEMENTS, RIGHTS-OF-WAY,
12 AND RELOCATIONS.—The non-Federal interest
13 shall receive credit for land, easements, rights-
14 of-way, and relocations provided by the non-
15 Federal interest toward the non-Federal share
16 of project costs (including all reasonable costs
17 associated with obtaining permits necessary for
18 the construction, operation, and maintenance of
19 the project on publicly owned or controlled
20 land), but not to exceed 25 percent of total
21 project costs.

22 (D) OPERATION AND MAINTENANCE.—The
23 non-Federal share of operation and mainte-
24 nance costs for projects constructed with assist-

1 ance provided under this section shall be 100
2 percent.

3 (f) APPLICABILITY OF OTHER FEDERAL AND STATE
4 LAWS.—Nothing in this section waives, limits, or other-
5 wise affects the applicability of any provision of Federal
6 or State law that would otherwise apply to a project to
7 be carried out with assistance provided under this section.

8 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated to carry out this section for
10 the period beginning with fiscal year 2005, \$25,000,000,
11 to remain available until expended.

12 SEC. 109. WATERSHED MANAGEMENT AND DEVEL-
13 OPMENT. Section 503 of the Water Resources Develop-
14 ment Act of 1996 (110 Stat. 3756) is amended in sub-
15 section (c) by inserting the following: “The non-Federal
16 share of the cost to provide assistance for the Lake Tahoe
17 watershed, California and Nevada, and Walker River
18 Basin, Nevada may be provided as work-in-kind.”.

19 SEC. 110. The Assistant Secretary of the Army for
20 Civil Works shall enter into an agreement with the Orange
21 County Water District, Orange County, California for pur-
22 poses of water conservation storage and operations to pro-
23 vide at a minimum a conservation level up to elevation
24 498 feet mean sea level during the flood season, and up
25 to elevation 505 feet mean sea level during the non-flood

1 season at Prado Dam, California. The Orange County
2 Water District shall pay to the Government only the sepa-
3 rable costs associated with implementation and operation
4 and maintenance of Prado Dam for water conservation.

5 SEC. 111. BLACK WARRIOR-TOMBIGBEE RIVERS,
6 ALABAMA. (a) IN GENERAL.—The Secretary is authorized
7 to construct a new project management office located in
8 the city of Tuscaloosa, Alabama, at a location within the
9 vicinity of the city, at full Federal expense.

10 (b) TRANSFER OF LAND AND STRUCTURES.—The
11 Secretary is authorized to convey, or otherwise transfer
12 to the city of Tuscaloosa, Alabama, at fair market value,
13 the land and structures associated with the existing
14 project management office, if the city agrees to assume
15 full responsibility for demolition of the existing project
16 management office.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to carry out subsection (a)
19 \$32,000,000.

20 SEC. 112. Within 75 days of the date of the Chief
21 of Engineers Report on a water resource matter, the As-
22 sistant Secretary of the Army (Civil Works) shall submit
23 the report to the appropriate authorizing and appro-
24 priating committees of the Congress.

1 SEC. 113. Within 90 days of the date of enactment
2 of this Act, the Assistant Secretary of the Army (Civil
3 Works) shall transmit to Congress his report on any water
4 resources matter on which the Chief of Engineers has re-
5 ported.

6 SEC. 114. COASTAL WETLAND CONSERVATION
7 PROJECT FUNDING. (a) FUNDING.—Section 306 of the
8 Coastal Wetlands Planning, Protection, and Restoration
9 Act (16 U.S.C. 3955) is amended—

10 (1) in subsection (a), by striking “, not to ex-
11 ceed \$70,000,000,”;

12 (2) in subsection (b), by striking “, not to ex-
13 ceed \$15,000,000”; and

14 (3) in subsection (c), by striking “, not to ex-
15 ceed \$15,000,000,”.

16 (b) PERIOD OF AUTHORIZATION.—Section 4(a) of
17 the Dingell-Johnson Sport Fish Restoration Act (16
18 U.S.C. 777c(a)) is amended in the second sentence by
19 striking “2009” and inserting “2019”.

20 SEC. 115. The Secretary of the Army, acting through
21 the Chief of Engineers, is directed to design and construct
22 a marina and associated facilities project capable of re-
23 maining in operation through extended drought conditions
24 at Federal expense at Lake Sakakawea, North Dakota.

1 SEC. 116. CENTRAL CITY, FORT WORTH, TEXAS.
2 The project for flood control and other purposes on the
3 Trinity River and Tributaries, Texas, authorized by the
4 River and Harbor Act of 1965 (Public Law 89–298), as
5 modified, is further modified to authorize the Secretary
6 to undertake the Central City River Project, as generally
7 described in the Trinity River Vision Master Plan, dated
8 April 2003, as amended, at a total cost not to exceed
9 \$220,000,000, at a Federal cost of \$110,000,000, and a
10 non-Federal cost of \$110,000,000, if the Secretary deter-
11 mines the work is technically sound and environmentally
12 acceptable. The cost of work undertaken by the non-Fed-
13 eral interests before the date of execution of a project co-
14 operation agreement shall be credited against the non-
15 Federal share of project costs if the Secretary determines
16 that the work is integral to the project.

17 SEC. 117. Notwithstanding any other provision of
18 law, the Secretary of the Army is authorized to carry out,
19 at full Federal expense, structural and non-structural
20 projects for storm damage prevention and reduction,
21 coastal erosion, and ice and glacial damage in Alaska, in-
22 cluding relocation of affected communities and construc-
23 tion of replacement facilities.

24 SEC. 118. COOK INLET, ALASKA. (a) ANCHORAGE
25 HARBOR.—

1 (1) HARBOR DEPTH.—The project for naviga-
2 tion improvements, Cook Inlet, Alaska (Anchorage
3 Harbor, Alaska), authorized by section 101 of the
4 River and Harbor Act of 1958 (72 Stat. 299) and
5 modified by section 199 of the Water Resources De-
6 velopment Act of 1976 (90 Stat. 2944), is further
7 modified to direct the Secretary of the Army to con-
8 struct a harbor depth of minus 45 feet mean lower
9 low water for a length of 10,860 feet at the modified
10 Port of Anchorage intermodal marine facility at each
11 phase of facility modification as such phases are
12 completed and thereafter as the entire project is
13 completed.

14 (2) COST-SHARING.—If the Secretary deter-
15 mines that the modified Port of Anchorage will be
16 used by vessels operated by the Department of De-
17 fense that have a draft of greater than 35 feet, the
18 modification referred to in paragraph (1) shall be at
19 full federal expense.

20 (3) TRANSITIONAL DREDGING.—Before comple-
21 tion of the project modification described in para-
22 graph (1), the Secretary may conduct dredging to a
23 depth of at least minus 35 feet mean lower low
24 water in such locations as will allow maintenance of
25 navigation and vessel access to the Port of Anchor-

1 age intermodal marine facility during modification of
2 such facility. Such work shall be carried out by the
3 Secretary in accordance with section 101 of the
4 River and Harbor Act of 1958.

5 (4) FACILITATING FACILITY MODIFICATION.—
6 Before establishing the harbor depth of minus 45
7 feet mean lower low water, the Secretary may under-
8 take dredging in accordance with section 101 of the
9 River and Harbor Act of 1958 within the design
10 footprint of the modified intermodal marine facility
11 referred to in paragraph (1) to facilitate modifica-
12 tion. The Secretary may carry out such dredging as
13 part of operation and maintenance of the project
14 modified by paragraph (1).

15 (5) MAINTENANCE.—Federal maintenance shall
16 continue for the existing project until the modified
17 intermodal marine facility is completed. Federal
18 maintenance of the modified project shall be in ac-
19 cordance with section 101 of the River and Harbor
20 Act of 1958; except that the project shall be main-
21 tained at a depth of minus 45 feet mean lower low
22 water for 10,860 feet referred to in paragraph (1).

23 (b) NAVIGATION CHANNEL.—The Secretary shall
24 modify the channel in the exiting Cook Inlet Navigation
25 Channel approach to Anchorage Harbor, Alaska, to run

1 the entire length of Fire Island Range and Point Woronzof
2 Range and shall modify the depth of that channel to minus
3 45 feet mean lower low water. The channel shall be main-
4 tained at a depth of minus 45 feet mean lower low water.

5 (c) HYDRODYNAMIC MODELING.—The Secretary
6 shall carry out hydrodynamic modeling of the Knik Arm
7 to identify causes of, and measures to address, shoaling
8 at the Port of Anchorage, at a total cost of \$3,000,000.

9 (d) ALTERNATIVES ANALYSIS.—No alternative other
10 than the alternative authorized in this section shall be con-
11 sidered in any analysis of the modified project to be car-
12 ried out by the Secretary in accordance with this section.

13 SEC. 119. NORTHERN WISCONSIN. Section 154(c) of
14 title I of division B of the Miscellaneous Appropriations
15 Act, 2001, enacted into law by the Consolidated Appro-
16 priations Act, 2001 (114 Stat. 2763A–252), is amended—

17 (1) by inserting after “design” the following: “,
18 construction,”; and

19 (2) by inserting before “wastewater treatment”
20 the following: “navigation and inland harbor im-
21 provement and expansion,”.

22 SEC. 120. ST. CROIX FALLS ENVIRONMENTAL IN-
23 FRASTRUCTURE, WISCONSIN. ADDITIONAL ASSIST-
24 ANCE.—Section 219(f) of the Water Resources Develop-
25 ment Act of 1992 (106 Stat. 4835; 110 Stat. 3757; 113

1 Stat. 335; 114 Stat. 2763A-220) is amended by adding
2 at the end the following:

3 “(72) ST. CROIX FALLS, WISCONSIN.—
4 \$5,000,000 for waste water infrastructure, St. Croix
5 Falls, Wisconsin.”.

6 SEC. 121. BURNS HARBOR, INDIANA. The Secretary
7 of the Army, acting through the Chief of Engineers, is
8 authorized and directed to dredge sediments, at 100 per-
9 cent federal cost, in the vicinity of the Bailey (NIPSCO)
10 intake structure that is approximately 5,000 feet east of
11 and 2,300 feet north of the northern most point of the
12 Burns Waterway Harbor Breakwater authorized by Public
13 Law 89-298.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

18 For carrying out activities authorized by the Central
19 Utah Project Completion Act, ~~\$44,541,000~~, to remain
20 available until expended, of which \$15,469,000 shall be
21 deposited into the Utah Reclamation Mitigation and Con-
22 servation Account for use by the Utah Reclamation Miti-
23 gation and Conservation Commission.

INSERT
~~SEC. 122~~
29 A AND
29 B

\$46,275,000

INSERT 29A

SEC. 122.

~~APPROPRIATIONS~~
~~GENERAL PROVISIONS~~

§ _____. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to transfer the unexpended balance of funds appropriated in Fiscal Years 2003 and 2004 for the Duck River Water Supply Infrastructure Project, Cullman, Alabama, to the Appalachian Regional Commission.

(b) Funds transferred pursuant to subsection (a) of this section may be used for planning, engineering, and construction activities on the Duck River Water Supply Infrastructure Project under the Memorandum of Agreement between the Appalachian Regional Commission and the Army Corps of Engineers and may be used to reimburse the City of Cullman, Alabama for expenses incurred by the City for planning and environmental work associated with the Project.

Sec. 123. ^{WITH} ~~Of~~ the funds previously provided under the account heading "Flood Control and Coastal Emergencies", the ~~Secy of~~ the Army, acting through the Chief of Engineers, is directed to provide assistance to ~~Yakutat, AK~~ Dam.

↑
YAKUTAT, ALASKA

SECRETARY

INSERT 29B

Sec. 124. The Secretary of the Army, acting through the Chief of Engineers, shall not implement ~~new budget proposals for shoreline protection projects~~ that have not been specifically authorized by Congress.

POLICIES

CHANGES TO EXISTING

1 In addition, for necessary expenses incurred in car-
2 rying out related responsibilities of the Secretary of the
3 Interior, \$1,734,000, to remain available until expended.

4 BUREAU OF RECLAMATION

5 The following appropriations shall be expended to
6 execute authorized functions of the Bureau of Reclama-
7 tion:

8 WATER AND RELATED RESOURCES

9 (INCLUDING TRANSFER OF FUNDS)

10 For management, development, and restoration of
11 water and related natural resources and for related activi-
12 ties, including the operation, maintenance, and rehabilita-
13 tion of reclamation and other facilities, participation in
14 fulfilling related Federal responsibilities to Native Ameri-
15 cans, and related grants to, and cooperative and other
16 agreements with, State and local governments, Indian
17 tribes, and others, \$852,834,000, to remain available until
18 expended, of which \$53,299,000 shall be available for
19 transfer to the Upper Colorado River Basin Fund and
20 \$33,794,000 shall be available for transfer to the Lower
21 Colorado River Basin Development Fund; of which such
22 amounts as may be necessary may be advanced to the Col-
23 orado River Dam Fund; of which not more than \$500,000
24 is for high priority projects which shall be carried out by
25 the Youth Conservation Corps, as authorized by 16 U.S.C.
26 1706: *Provided further*, That such transfers may be in-

\$859,481,000
~~\$852,834,000~~

1 creased or decreased within the overall appropriation
2 under this heading: *Provided further*, That of the total ap-
3 propriated, the amount for program activities can be fi-
4 nanced by the Reclamation Fund or the Bureau of Rec-
5 lamation special fee account established by 16 U.S.C.
6 4601-6a(i) shall be derived from that Fund or account:
7 *Provided further*, That funds contributed under 43 U.S.C.
8 395 are available until expended for the purposes for
9 which contributed: *Provided further*, That \$250,000 is pro-
10 vided under the Weber Basin project for the Park City,
11 Utah feasibility study: *Provided further*, That funds ad-
12 vanced under 43 U.S.C. 397a shall be credited to this ac-
13 count and are available until expended for the same pur-
14 poses as the sums appropriated under this heading: *Pro-*
15 *vided further*, That funds available for expenditure for the
16 Departmental Irrigation Drainage Program may be ex-
17 pended by the Bureau of Reclamation for site remediation
18 on a non-reimbursable basis.

19 CENTRAL VALLEY PROJECT RESTORATION FUND

20 For carrying out the programs, projects, plans, and
21 habitat restoration, improvement, and acquisition provi-
22 sions of the Central Valley Project Improvement Act,
23 \$54,695,000, to be derived from such sums as may be col-
24 lected in the Central Valley Project Restoration Fund pur-
25 suant to sections 3407(d), 3404(c)(3), 3405(f), and
26 3406(c)(1) of Public Law 102-575, to remain available

1 until expended: *Provided*, That the Bureau of Reclamation
2 is directed to assess and collect the full amount of the
3 additional mitigation and restoration payments authorized
4 by section 3407(d) of Public Law 102-575: *Provided fur-*
5 *ther*, That none of the funds made available under this
6 heading may be used for the acquisition or leasing of water
7 for in-stream purposes if the water is already committed
8 to in-stream purposes by a court adopted decree or order.

9 POLICY AND ADMINISTRATION

10 For necessary expenses of policy, administration, and
11 related functions in the office of the Commissioner, the
12 Denver office, and offices in the five regions of the Bureau
13 of Reclamation, to remain available until expended,
14 \$58,153,000 to be derived from the Reclamation Fund
15 and be nonreimbursable as provided in 43 U.S.C. 377:
16 *Provided*, That no part of any other appropriation in this
17 Act shall be available for activities or functions budgeted
18 as policy and administration expenses.

19 ADMINISTRATIVE PROVISIONS

20 Appropriations for the Bureau of Reclamation shall
21 be available for purchase of not to exceed 14 passenger
22 motor vehicles, of which 11 are for replacement only.

23 GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

24 SEC. 201. (a) None of the funds appropriated or oth-
25 erwise made available by this Act may be used to deter-
26 mine the final point of discharge for the interceptor drain

1 for the San Luis Unit until development by the Secretary
2 of the Interior and the State of California of a plan, which
3 shall conform to the water quality standards of the State
4 of California as approved by the Administrator of the En-
5 vironmental Protection Agency, to minimize any detri-
6 mental effect of the San Luis drainage waters.

7 (b) The costs of the Kesterson Reservoir Cleanup
8 Program and the costs of the San Joaquin Valley Drain-
9 age Program shall be classified by the Secretary of the
10 Interior as reimbursable or nonreimbursable and collected
11 until fully repaid pursuant to the "Cleanup Program-Al-
12 ternative Repayment Plan" and the "SJVDP-Alternative
13 Repayment Plan" described in the report entitled "Repay-
14 ment Report, Kesterson Reservoir Cleanup Program and
15 San Joaquin Valley Drainage Program, February 1995",
16 prepared by the Department of the Interior, Bureau of
17 Reclamation. Any future obligations of funds by the
18 United States relating to, or providing for, drainage serv-
19 ice or drainage studies for the San Luis Unit shall be fully
20 reimbursable by San Luis Unit beneficiaries of such serv-
21 ice or studies pursuant to Federal reclamation law.

22 SEC. 202. None of the funds appropriated or other-
23 wise made available by this or any other Act may be used
24 to pay the salaries and expenses of personnel to purchase
25 or lease water in the Middle Rio Grande or the Carlsbad

1 Projects in New Mexico unless said purchase or lease is
2 in compliance with the purchase requirements of section
3 202 of Public Law 106–60.

4 SEC. 203. LOWER COLORADO RIVER BASIN DEVEL-
5 OPMENT. (a) IN GENERAL.—Notwithstanding section
6 403(f) of the Colorado River Basin Project Act (43 U.S.C.
7 1543(f)), no amount from the Lower Colorado River Basin
8 Development Fund shall be paid to the general fund of
9 the Treasury until each provision of the revised Stipula-
10 tion Regarding a Stay and for Ultimate Judgment Upon
11 the Satisfaction of Conditions, filed in United States Dis-
12 trict Court on April 24, 2003, in Central Arizona Water
13 Conservation District v. United States (No. CIV 95–625–
14 TUC–WDB (EHC), No. CIV 95–1720–OHX–EHC (Con-
15 solidated Action)), and any amendment or revision there-
16 of, is met.

17 (b) PAYMENT TO GENERAL FUND.—If any of the
18 provisions of the stipulation referred to in subsection (a)
19 are not met by the date that is 10 years after the date
20 of enactment of this Act, payments to the general fund
21 of the Treasury shall resume in accordance with section
22 403(f) of the Colorado River Basin Project Act (43 U.S.C.
23 1543(f)).

24 (c) AUTHORIZATION.—Amounts in the Lower Colo-
25 rado River Basin Development Fund that but for this sec-

tion would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.

SEC. 204. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: *Provided*, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

SEC. 205. (a) Notwithstanding any other provision of law and hereafter, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds, and may not use discretion, if any, to restrict, reduce or reallocate any water stored in Heron Reservoir or delivered pursuant to San Juan-Chama Project contracts, including execution of said contracts facilitated by the Middle Rio Grande Project, to meet the requirements of the Endangered Species Act, unless such water is acquired or otherwise made available from a willing seller or lessor and the use is in compliance with the laws of the State of New Mexico, including but not limited to, permitting requirements.

1 (b) Complying with the reasonable and prudent alter-
2 natives and the incidental take limits defined in the Bio-
3 logical Opinion released by the United States Fish and
4 Wildlife Service dated March 17, 2003 combined with ef-
5 forts carried out pursuant to Public Law 106-377, Public
6 Law 107-66, and Public Law 108-7 fully meet all re-
7 quirements of the Endangered Species Act (16 U.S.C.
8 1531 et seq.) for the conservation of the Rio Grande Sil-
9 very Minnow (*Hybognathus amarus*) and the South-
10 western Willow Flycatcher (*Empidonax trailii extimus*) on
11 the Middle Rio Grande in New Mexico.

12 (c) This section applies only to those Federal agency
13 and non-Federal actions addressed in the March 17, 2003
14 Biological Opinion.

15 (d) Subsection (b) will remain in effect until March
16 16, 2013.

17 SEC. 206. The Secretary of the Interior, acting
18 through the Commissioner of the Bureau of Reclamation,
19 is authorized to enter into grants, cooperative agreements,
20 and other agreements with irrigation or water districts
21 and States to fund up to 50 percent of the cost of plan-
22 ning, designing, and constructing improvements that will
23 conserve water, increase water use efficiency, or enhance
24 water management through measurement or automation,
25 at existing water supply projects within the states identi-

1 fied in the Act of June 17, 1902, as amended, and supple-
2 mented: *Provided*, That when such improvements are to
3 federally owned facilities, such funds may be provided in
4 advance on a non-reimbursable basis to an entity oper-
5 ating affected transferred works or may be deemed non-
6 reimbursable for non-transferred works: *Provided further*,
7 That the calculation of the non-Federal contribution shall
8 provide for consideration of the value of any in-kind con-
9 tributions, but shall not include funds received from other
10 Federal agencies: *Provided further*, That the cost of oper-
11 ating and maintaining such improvements shall be the re-
12 sponsibility of the non-Federal entity: *Provided further*,
13 That this section shall not supercede any existing project-
14 specific funding authority/ ^{! PROVIDED FURTHER THAT,} The Secretary is also author-
15 ized to enter into grants or cooperative agreements with
16 universities or non-profit research institutions to fund
17 water use efficiency research.

18 SEC. 207. ANIMAS-LA PLATA NON-INDIAN SPONSOR
19 OBLIGATIONS. In accordance with the nontribal repay-
20 ment obligation specified in Subsection 6(a)(3)(B) of the
21 Colorado Ute Indian Rights Settlement Act of 1988 (Pub-
22 lic Law 100-585), as amended by the Colorado Ute Settle-
23 ment Act Amendments of 2000 (Public Law 106-554),
24 the reimbursable cost upon which the cost allocation shall
25 be based shall not exceed \$43,000,000, plus interest dur-

1 ing construction for those parties not utilizing the up front
2 payment option, of the first \$500,000,000 (January 2003
3 price level) of the total project costs. Consequently, the
4 Secretary may forgive the obligation of the non-Indian
5 sponsors relative to the \$163,000,000 increase in esti-
6 mated total project costs that occurred in 2003.

7 SEC. 208. MONTANA WATER CONTRACTS EXTEN-
8 SION. (a) AUTHORITY TO EXTEND.—The Secretary of the
9 Interior may extend each of the water contracts listed in
10 subsection (b) until the earlier of—

11 (1) the expiration of the 2-year period begin-
12 ning on the date on which the contract would expire
13 but for this section; or

14 (2) the date on which a new long-term water
15 contract is executed by the parties to the contract
16 listed in subsection (b).

17 (b) EXTENDED CONTRACTS.—The water contracts
18 referred to in subsection (a) are the following:

19 (1) Contract Number 14-06-600-2078, as
20 amended, for purchase of water between the United
21 States of America and the City of Helena, Montana.

22 (2) Contract Number 14-06-600-2079, as
23 amended, between the United States of America and
24 the Helena Valley Irrigation District for water serv-
25 ice.

1 (3) Contract Number 14-06-600-8734, as
2 amended, between the United States of America and
3 the Toston Irrigation District for water service.

4 (4) Contract Number 14-06-600-3592, as
5 amended, between the United States and the Clark
6 Canyon Water Supply Company, Inc., for water
7 service and for a supplemental supply.

8 (5) Contract Number 14-06-600-3593, as
9 amended, between the United States and the East
10 Bench Irrigation District for water service.

11 TITLE III

12 DEPARTMENT OF ENERGY

13 ENERGY PROGRAMS

14 ENERGY SUPPLY

15 For Department of Energy expenses including the
16 purchase, construction, and acquisition of plant and cap-
17 ital equipment, and other expenses necessary for energy
18 supply activities in carrying out the purposes of the De-
19 partment of Energy Organization Act (42 U.S.C. 7101 et
20 seq.), including the acquisition or condemnation of any
21 real property or any facility or for plant or facility acqui-
22 sition, construction, or expansion, and the purchase of not
23 to exceed 9 passenger motor vehicles for replacement only,
24 and one ambulance, \$946,272,000, to remain available
25 until expended.

1 NON-DEFENSE SITE ACCELERATION COMPLETION

2 For Department of Energy expenses, including the
3 purchase, construction, and acquisition of plant and cap-
4 ital equipment and other expenses necessary for non-de-
5 fense environmental management site acceleration com-
6 pletion activities in carrying out the purposes of the De-
7 partment of Energy Organization Act (42 U.S.C. 7101 et
8 seq.), including the acquisition or condemnation of any
9 real property or any facility or for plant or facility acqui-
10 sition, construction, or expansion, \$151,850,000, to re-
11 main available until expended.

12 URANIUM ENRICHMENT DECONTAMINATION AND
13 DECOMMISSIONING FUND

14 For necessary expenses in carrying out uranium en-
15 richment facility decontamination and decommissioning,
16 remedial actions, and other activities of title II of the
17 Atomic Energy Act of 1954, as amended, and title X, sub-
18 title A, of the Energy Policy Act of 1992, \$499,007,000,
19 to be derived from the Fund, to remain available until ex-
20 pended, of which \$80,000,000 shall be available in accord-
21 ance with title X, subtitle A, of the Energy Policy Act
22 of 1992.

23 NON-DEFENSE ENVIRONMENTAL SERVICES

24 For Department of Energy expenses necessary for
25 non-defense environmental services activities that indi-

1 rectly support the accelerated cleanup and closure mis-
2 sion at environmental management sites, including the
3 purchase, construction, and acquisition of plant and cap-
4 ital equipment and other necessary expenses,
5 \$291,296,000, to remain available until expended.

6 SCIENCE

7 For Department of Energy expenses including the
8 purchase, construction and acquisition of plant and capital
9 equipment, and other expenses necessary for science ac-
10 tivities in carrying out the purposes of the Department
11 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
12 cluding the acquisition or condemnation of any real prop-
13 erty or facility or for plant or facility acquisition, construc-
14 tion, or expansion, and purchase of not to exceed four pas-
15 senger motor vehicles for replacement only, including not
16 to exceed one ambulance, \$3,628,902,000, to remain avail-
17 able until expended.

18 NUCLEAR WASTE DISPOSAL

19 For nuclear waste disposal activities to carry out the
20 purposes of Public Law 97-425, as amended, including
21 the acquisition of real property or facility construction or
22 expansion, ~~\$446,000,000~~, to remain available until ex-
23 pended: *Provided*, That ~~1~~ of the funds made available in
24 this Act for Nuclear Waste Disposal, \$2,000,000 shall be
25 provided to the State of Nevada solely for expenditures,

\$346,000,000

1 other than salaries and expenses of State employees, to
2 conduct scientific oversight responsibilities and participate
3 in licensing activities pursuant to the Nuclear Waste Pol-
4 icy Act of 1982, Public Law 97-425, as amended: *Pro-*
5 *vided further*, That \$8,000,000 shall be provided to af-
6 fected units of local governments, as defined in Public Law
7 97-425, to conduct scientific oversight responsibilities and
8 participate in licensing activities pursuant to the Act: *Pro-*
9 *vided further*, That the distribution of the funds as deter-
10 mined by the units of local government shall be approved
11 by the Department of Energy: *Provided further*, That the
12 funds for the State of Nevada shall be made available sole-
13 ly to the Nevada Division of Emergency Management by
14 direct payment and units of local government by direct
15 payment: *Provided further*, That within 90 days of the
16 completion of each Federal fiscal year, the Nevada Divi-
17 sion of Emergency Management and the Governor of the
18 State of Nevada and each local entity shall provide certifi-
19 cation to the Department of Energy that all funds ex-
20 pended from such payments have been expended for activi-
21 ties authorized by Public Law 97-425 and this Act, Fail-
22 ure to provide such certification shall cause such entity
23 to be prohibited from any further funding provided for
24 similar activities: *Provided further*, That none of the funds
25 herein appropriated may be: (1) used directly or indirectly

PROVIDED FURTHER, THAT

1 to influence legislative action on any matter pending be-
2 fore Congress or a State legislature or for lobbying activity
3 as provided in 18 U.S.C. 1913; (2) used for litigation ex-
4 penses; or (3) used to support multi-State efforts or other
5 coalition building activities inconsistent with the restric-
6 tions contained in this Act: *Provided further*, That all pro-
7 ceeds and recoveries realized by the Secretary in carrying
8 out activities authorized by the Nuclear Waste Policy Act
9 of 1982, Public Law 97-425, as amended, including but
10 not limited to, any proceeds from the sale of assets, shall
11 be available without further appropriation and shall re-
12 main available until expended.

13 DEPARTMENTAL ADMINISTRATION

14 (INCLUDING TRANSFER OF FUNDS)

15 For salaries and expenses of the Department of En-
16 ergy necessary for departmental administration in car-
17 rying out the purposes of the Department of Energy Orga-
18 nization Act (42 U.S.C. 7101 et seq.), including the hire
19 of passenger motor vehicles and official reception and rep-
20 resentation expenses (not to exceed \$35,000),
21 \$240,426,000, to remain available until expended, plus
22 such additional amounts as necessary to cover increases
23 in the estimated amount of cost of work for others not-
24 withstanding the provisions of the Anti-Deficiency Act (31
25 U.S.C. 1511 et seq.): *Provided*, That such increases in cost

1 of work are offset by revenue increases of the same or
2 greater amount, to remain available until expended: *Pro-*
3 *vided further*, That moneys received by the Department
4 for miscellaneous revenues estimated to total
5 \$122,000,000 in fiscal year 2005 may be retained and
6 used for operating expenses within this account, and may
7 remain available until expended, as authorized by section
8 201 of Public Law 95-238, notwithstanding the provisions
9 of 31 U.S.C. 3302: *Provided further*, That the sum herein
10 appropriated shall be reduced by the amount of miscella-
11 neous revenues received during fiscal year 2005, and any
12 related unappropriated receipt account balances remaining
13 from prior years' miscellaneous revenues, so as to result
14 in a final fiscal year 2005 appropriation from the general
15 fund estimated at not more than \$118,426,000.

16 OFFICE OF THE INSPECTOR GENERAL

17 For necessary expenses of the Office of the Inspector
18 General in carrying out the provisions of the Inspector
19 General Act of 1978, as amended, \$41,508,000, to remain
20 available until expended.

21 ATOMIC ENERGY DEFENSE ACTIVITIES

22 NATIONAL NUCLEAR SECURITY ADMINISTRATION

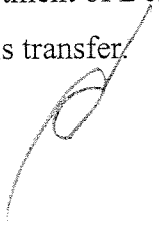
23 WEAPONS ACTIVITIES

24] (INCLUDING TRANSFER OF FUNDS) [
25 For Department of Energy expenses, including the
purchase, construction, and acquisition of plant and cap-

1 ital equipment and other incidental expenses necessary for
2 atomic energy defense weapons activities in carrying out
3 the purposes of the Department of Energy Organization
4 Act (42 U.S.C. 7101 et seq.), including the acquisition or
5 condemnation of any real property or any facility or for
6 plant or facility acquisition, construction, or expansion;
7 and the purchase of not to exceed 19 passenger motor ve-
8 hicles, for replacement only, including not to exceed two
9 buses; ~~\$6,529,471,000~~ ^{\$6,526,} to remain available until ex- ^{471,000}
10 pended: *Provided*, That \$9¹/₂,100,000 is authorized to be INSERT 45 A
11 appropriated for Project 01-D-108, Microsystems and en-
12 gineering sciences applications (MESA), Sandia National
13 Laboratories, Albuquerque, New Mexico: *Provided further*,
14 That \$⁴⁰~~65~~,000,000 is authorized to be appropriated for
15 Project 04-D-125, chemistry and metallurgy facility re-
16 placement project, Los Alamos Laboratory, Los Alamos,
17 New Mexico: *Provided further*, That \$1,500,000 is author-
18 ized to be appropriated for Project 04-D-103, Project en-
19 gineering and design (PED), various locations: *Provided*
20 *further*, That a plant or construction project for which
21 amounts are made available under this heading but not
22 exclusive to the Atomic Energy Defense Weapons Activi-
23 ties account, with a current estimated cost of less than
24 \$10,000,000 is considered for purposes of section 3622
25 of Public Law 107-314 as a plant project for which the

(INSERT 45a)

\$ 6,226,471,000, together with \$300,000,000 to be derived by transfer from the Department of Defense, to remain available until expended: *Provided*, That the Secretary of Defense shall reduce proportionately each program, project, and activity funded by appropriations in titles I through VI of the Department of Defense Appropriations Act, 2005 (Public Law 108-287) to fund this transfer.



1 approved total estimated cost does not exceed the minor
2 construction threshold and for purposes of section 3623
3 of Public Law 107-314 as a construction project with a
4 current estimated cost of less than the minor construction
5 threshold.

6 DEFENSE NUCLEAR NONPROLIFERATION

7 For Department of Energy expenses, including the
8 purchase, construction and acquisition of plant and capital
9 equipment and other incidental expenses necessary for
10 atomic energy defense, defense nuclear nonproliferation
11 activities, in carrying out the purposes of the Department
12 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
13 cluding the acquisition or condemnation of any real prop-
14 erty or any facility or for plant or facility acquisition, con-
15 struction, or expansion, \$1,420,397,000, to remain avail-
16 able until expended.

17 NAVAL REACTORS

18 For Department of Energy expenses necessary for
19 naval reactors activities to carry out the Department of
20 Energy Organization Act (42 U.S.C. 7101 et seq.), in-
21 cluding the acquisition (by purchase, condemnation, con-
22 struction, or otherwise) of real property, plant, and cap-
23 ital equipment, facilities, and facility expansion,
24 \$807,900,000, to remain available until expended.

1 OFFICE OF THE ADMINISTRATOR

2 For necessary expenses of the Office of the Adminis-
3 trator in the National Nuclear Security Administration,
4 including official reception and representation expenses
5 (not to exceed \$12,000), \$356,200,000, to remain avail-
6 able until expended.

7 ENVIRONMENTAL AND OTHER DEFENSE

8 ACTIVITIES

9 DEFENSE SITE ACCELERATION COMPLETION

10 For Department of Energy expenses, including the
11 purchase, construction, and acquisition of plant and cap-
12 ital equipment and other expenses necessary for atomic
13 energy defense site acceleration completion activities in
14 carrying out the purposes of the Department of Energy
15 Organization Act (42 U.S.C. 7101 et seq.), including the
16 acquisition or condemnation of any real property or any
17 facility or for plant or facility acquisition, construction,
18 or expansion, ~~\$5,804,479,000~~, to remain available until
19 expended. ~~\$5,804,479,000~~

20 DEFENSE ENVIRONMENTAL SERVICES

21 For Department of Energy expenses necessary for
22 defense-related environmental services activities that indi-
23 rectly support the accelerated cleanup and closure mis-
24 sion at environmental management sites, including the
25 purchase, construction, and acquisition of plant and cap-

1 ital equipment and other necessary expenses, and the
2 purchase of not to exceed three ambulances for replace-
3 ment only, \$937,976,000, to remain available until ex-
4 pended.

5 OTHER DEFENSE ACTIVITIES

6 For Department of Energy expenses, including the
7 purchase, construction, and acquisition of plant and cap-
8 ital equipment and other expenses, necessary for atomic
9 energy defense, other defense activities, and classified ac-
10 tivities, in carrying out the purposes of the Department
11 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
12 cluding the acquisition or condemnation of any real prop-
13 erty or any facility or for plant or facility acquisition, con-
14 struction, or expansion, \$692,691,000, to remain available
15 until expended.

16 DEFENSE NUCLEAR WASTE DISPOSAL

17 For nuclear waste disposal activities to carry out the
18 purposes of Public Law 97-425, as amended, including
19 the acquisition of real property or facility construction or
20 expansion, \$²~~1~~31,000,000, to remain available until ex-
21 pended.

22 POWER MARKETING ADMINISTRATIONS

23 BONNEVILLE POWER ADMINISTRATION FUND

24 Expenditures from the Bonneville Power Administra-
25 tion Fund, established pursuant to Public Law 93-454,

1 are approved for official reception and representation ex-
2 penses in an amount not to exceed \$1,500. During fiscal
3 year 2005, no new direct loan obligations may be made.

4 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
5 ADMINISTRATION

6 For necessary expenses of operation and maintenance
7 of power transmission facilities and of marketing electric
8 power and energy, including transmission wheeling and
9 ancillary services, pursuant to the provisions of section 5
10 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
11 applied to the southeastern power area, \$5,200,000, to re-
12 main available until expended: *Provided, That,* notwith-
13 standing the provisions of 31 U.S.C. 3302, up to
14 \$34,000,000 collected by the Southeastern Power Admin-
15 istration pursuant to the Flood Control Act of 1944 to
16 recover purchase power and wheeling expenses shall be
17 credited to this account as offsetting collections, to remain
18 available until expended for the sole purpose of making
19 purchase power and wheeling expenditures.

20 OPERATION AND MAINTENANCE, SOUTHWESTERN
21 POWER ADMINISTRATION

22 For necessary expenses of operation and maintenance
23 of power transmission facilities and of marketing electric
24 power and energy, for construction and acquisition of
25 transmission lines, substations and appurtenant facilities,

1 and for administrative expenses, including official recep-
2 tion and representation expenses in an amount not to ex-
3 ceed \$1,500 in carrying out the provisions of section 5
4 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
5 applied to the southwestern power area, \$29,352,000, to
6 remain available until expended: *Provided*, That, notwith-
7 standing the provisions of 31 U.S.C. 3302, up to
8 \$2,900,000 collected by the Southwestern Power Adminis-
9 tration pursuant to the Flood Control Act to recover pur-
10 chase power and wheeling expenses shall be credited to
11 this account as offsetting collections, to remain available
12 until expended for the sole purpose of making purchase
13 power and wheeling expenditures; in addition, notwith-
14 standing 31 U.S.C. 3302, beginning in fiscal year 2005
15 and thereafter, such funds as are received by the South-
16 western Power Administration from any State, munici-
17 pality, corporation, association, firm, district, or individual
18 as advance payment for work that is associated with
19 Southwestern's transmission facilities, consistent with
20 that authorized in section 5 of the Flood Control Act, shall
21 be credited to this account and be available until ex-
22 pended.

1 CONSTRUCTION, REHABILITATION, OPERATION AND
2 MAINTENANCE, WESTERN AREA POWER ADMINIS-
3 TRATION

4 For carrying out the functions authorized by title III,
5 section 302(a)(1)(E) of the Act of August 4, 1977 (42
6 U.S.C. 7152), and other related activities including con-
7 servation and renewable resources programs as author-
8 ized, including official reception and representation ex-
9 penses in an amount not to exceed \$1,500, ~~\$173,100,000,~~ (;
10 to remain available until expended, of which \$167,236,000
11 shall be derived from the Department of the Interior Rec-
12 lamation Fund: *Provided*, That of the amount herein ap-
13 propriated, \$10,000,000 shall be available until expended
14 on a nonreimbursable basis to the Western Area Power
15 Administration to design, construct, operate and maintain
16 transmission facilities and services for the Animas-
17 LaPlata Project as authorized by section 301(b)(10) of
18 Public Law 106-554: *Provided further*, That of the
19 amount herein appropriated, \$6,200,000 is for deposit
20 into the Utah Reclamation Mitigation and Conservation
21 Account pursuant to title IV of the Reclamation Projects
22 Authorization and Adjustment Act of 1992: *Provided fur-*
23 *ther*, That of the amount herein appropriated, \$4,825,000 (INSERT 51A
24 shall be available until expended on a nonreimbursable
25 basis to the Western Area Power Administration to up-

INSERT 51A

\$6,000,000 shall be available until expended on a nonreimbursable basis to the Western Area Power Administration for Topock-Davis-Mead Transmission Line Upgrades:

1 grade substations and transmission lines for the South of
2 Phoenix portion of the Parker-Davis project: *Provided fur-*
3 *ther*, That notwithstanding the provision of 31 U.S.C.
4 3302, up to \$227,600,000 collected by the Western Area
5 Power Administration pursuant to the Flood Control Act
6 of 1944 and the Reclamation Project Act of 1939 to re-
7 cover purchase power and wheeling expenses shall be cred-
8 ited to this account as offsetting collections, to remain
9 available until expended for the sole purpose of making
10 purchase power and wheeling expenditures.

11 FALCON AND AMISTAD OPERATING AND MAINTENANCE
12 FUND

13 For operation, maintenance, and emergency costs for
14 the hydroelectric facilities at the Falcon and Amistad
15 Dams, \$2,827,000, to remain available until expended,
16 and to be derived from the Falcon and Amistad Operating
17 and Maintenance Fund of the Western Area Power Ad-
18 ministration, as provided in section 423 of the Foreign
19 Relations Authorization Act, Fiscal Years 1994 and 1995.

20 FEDERAL ENERGY REGULATORY COMMISSION
21 SALARIES AND EXPENSES

22 For necessary expenses of the Federal Energy Regu-
23 latory Commission to carry out the provisions of the De-
24 partment of Energy Organization Act (42 U.S.C. 7101 et
25 seq.), including services as authorized by 5 U.S.C. 3109,

1 the hire of passenger motor vehicles, and official reception
2 and representation expenses (not to exceed \$3,000),
3 \$210,000,000, to remain available until expended: *Pro-*
4 *vided*, That notwithstanding any other provision of law,
5 not to exceed \$210,000,000 of revenues from fees and an-
6 nual charges, and other services and collections in fiscal
7 year 2005 shall be retained and used for necessary ex-
8 penses in this account, and shall remain available until
9 expended: *Provided further*, That the sum herein appro-
10 priated from the general fund shall be reduced as revenues
11 are received during fiscal year 2005 so as to result in a
12 final fiscal year 2005 appropriation from the general fund
13 estimated at not more than \$0.

14 GENERAL PROVISIONS

15 DEPARTMENT OF ENERGY

16 SEC. 301. (a)(1) None of the funds in this or any
17 other appropriations Act for fiscal year 2005 or any pre-
18 vious fiscal year may be used to make payments for a
19 noncompetitive management and operating contract un-
20 less the Secretary of Energy has published in the Federal
21 Register and submitted to the Committees on Appropria-
22 tions of the House of Representatives and the Senate a
23 written notification, with respect to each such contract,
24 of the Secretary's decision to use competitive procedures

1 for the award of the contract, or to not renew the con-
2 tract, when the term of the contract expires.

3 (2) Paragraph (1) does not apply to an extension for
4 up to two years of a noncompetitive management and op-
5 erating contract, if the extension is for purposes of allow-
6 ing time to award competitively a new contract, to pro-
7 vide continuity of service between contracts, or to com-
8 plete a contract that will not be renewed.

9 (b) In this section:

10 (1) The term “noncompetitive management and
11 operating contract” means a contract that was
12 awarded more than 50 years ago without competi-
13 tion for the management and operation of Ames
14 Laboratory, Argonne National Laboratory, Lawrence
15 Berkeley National Laboratory, Lawrence Livermore
16 National Laboratory, and Los Alamos National Lab-
17 oratory.

18 (2) The term “competitive procedures” has the
19 meaning provided in section 4 of the Office of Fed-
20 eral Procurement Policy Act (41 U.S.C. 403) and
21 includes procedures described in section 303 of the
22 Federal Property and Administrative Services Act of
23 1949 (41 U.S.C. 253) other than a procedure that
24 solicits a proposal from only one source.

1 (c) For all management and operating contracts
2 other than those listed in subsection (b)(1), none of the
3 funds appropriated by this Act may be used to award a
4 management and operating contract, or award a signifi-
5 cant extension or expansion to an existing management
6 and operating contract, unless such contract is awarded
7 using competitive procedures or the Secretary of Energy
8 grants, on a case-by-case basis, a waiver to allow for such
9 a deviation. The Secretary may not delegate the authority
10 to grant such a waiver. At least 60 days before a contract
11 award for which the Secretary intends to grant such a
12 waiver, the Secretary shall submit to the Committees on
13 Appropriations of the House of Representatives and the
14 Senate a report notifying the Committees of the waiver
15 and setting forth, in specificity, the substantive reasons
16 why the Secretary believes the requirement for competition
17 should be waived for this particular award.

18 SEC. 302. None of the funds appropriated by this Act
19 may be used to—

20 (1) develop or implement a workforce restruc-
21 turing plan that covers employees of the Department
22 of Energy; or

23 (2) provide enhanced severance payments or
24 other benefits for employees of the Department of
25 Energy, under section 3161 of the National Defense

1 Authorization Act for Fiscal Year 1993 (Public Law
2 102-484; 42 U.S.C. 7274h).

3 SEC. 303. None of the funds appropriated by this Act
4 may be used to augment the ^{FUNDS} ~~\$2,500,000~~ made available
5 for obligation by this Act for severance payments and
6 other benefits and community assistance grants under sec-
7 tion 3161 of the National Defense Authorization Act for
8 Fiscal Year 1993 (Public Law 102-484; 42 U.S.C.
9 7274h) unless the Department of Energy submits a re-
10 programming request subject to approval by the appro-
11 priate congressional committees.

12 SEC. 304. None of the funds appropriated by this
13 Act may be used to prepare or initiate Requests For Pro-
14 posals (RFPs) for a program if the program has not been
15 funded by Congress.

16 (TRANSFERS OF UNEXPENDED BALANCES)

17 SEC. 305. The unexpended balances of prior appro-
18 priations provided for activities in this Act may be trans-
19 ferred to appropriation accounts for such activities estab-
20 lished pursuant to this title. Balances so transferred may
21 be merged with funds in the applicable established ac-
22 counts and thereafter may be accounted for as one fund
23 for the same time period as originally enacted.

24 SEC. 306. None of the funds in this or any other Act
25 for the Administrator of the Bonneville Power Adminis-
26 tration may be used to enter into any agreement to per-

1 form energy efficiency services outside the legally defined
2 Bonneville service territory, with the exception of services
3 provided internationally, including services provided on a
4 reimbursable basis, unless the Administrator certifies in
5 advance that such services are not available from private
6 sector businesses.

7 SEC. 307. When the Department of Energy makes
8 a user facility available to universities or other potential
9 users, or seeks input from universities or other potential
10 users regarding significant characteristics or equipment
11 in a user facility or a proposed user facility, the Depart-
12 ment shall ensure broad public notice of such availability
13 or such need for input to universities and other potential
14 users. When the Department of Energy considers the
15 participation of a university or other potential user as a
16 formal partner in the establishment or operation of a
17 user facility, the Department shall employ full and open
18 competition in selecting such a partner. For purposes of
19 this section, the term “user facility” includes, but is not
20 limited to: (1) a user facility as described in section
21 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
22 13503(a)(2)); (2) a National Nuclear Security Adminis-
23 tration Defense Programs Technology Deployment Cen-
24 ter/User Facility; and (3) any other Departmental facility
25 designated by the Department as a user facility.

1 SEC. 308. The Administrator of the National Nu-
2 clear Security Administration may authorize the manager
3 of a covered nuclear weapons research, development, test-
4 ing or production facility to engage in research, develop-
5 ment, and demonstration activities with respect to the en-
6 gineering and manufacturing capabilities at such facility
7 in order to maintain and enhance such capabilities at
8 such facility: *Provided*, That of the amount allocated to
9 a covered nuclear weapons facility each fiscal year from
10 amounts available to the Department of Energy for such
11 fiscal year for national security programs, not more than
12 an amount equal to 2 percent of such amount may be
13 used for these activities: *Provided further*, That for pur-
14 poses of this section, the term “covered nuclear weapons
15 facility” means the following:

- 16 (1) the Kansas City Plant, Kansas City, Mis-
17 souri;
18 (2) the Y-12 Plant, Oak Ridge, Tennessee;
19 (3) the Pantex Plant, Amarillo, Texas;
20 (4) the Savannah River Plant, South Carolina;
21 and
22 (5) the Nevada Test Site.

23 SEC. 309. Funds appropriated by this or any other
24 Act, or made available by the transfer of funds in this
25 Act, for intelligence activities are deemed to be specifically

1 authorized by the Congress for purposes of section 504
2 of the National Security Act of 1947 (50 U.S.C. 414) dur-
3 ing fiscal year 2005 until the enactment of the Intelligence
4 Authorization Act for fiscal year 2005.

5 SEC. 310. (a) The Secretary of Energy was directed
6 to file a permit modification to the Waste Analysis Plan
7 (WAP) and associated provisions contained in the Haz-
8 ardous Waste Facility Permit for the Waste Isolation Pilot
9 Plant (WIPP). For purposes of determining hereafter
10 compliance of the modifications to the WAP with the haz-
11 ardous waste analysis requirements of the Solid Waste
12 Disposal Act (42 U.S.C. 6901 et seq.), or other applicable
13 laws waste confirmation for all waste received for storage
14 and disposal shall be limited to: (1) confirmation that the
15 waste contains no ignitable, corrosive, or reactive waste
16 through the use of either radiography or visual examina-
17 tion of a statistically representative subpopulation of the
18 waste; and (2) review of the Waste Stream Profile Form
19 to verify that the waste contains no ignitable, corrosive,
20 or reactive waste and that assigned Environmental Protec-
21 tion Agency hazardous waste numbers are allowed for
22 storage and disposal by the WIPP Hazardous Waste Fa-
23 cility Permit.

24 (b) Compliance with the disposal room performance
25 standards of the WAP hereafter shall be demonstrated ex-

1 clusively by monitoring airborne volatile organic com-
2 pounds in underground disposal rooms in which waste has
3 been emplaced until panel closure.

4 SEC. 311. Section 3113 of Public Law 102-486 (42
5 U.S.C. 2297h-11) is amended by adding a new paragraph
6 (4) to subsection (a), as follows:

7 “(4) In the event that a licensee requests the
8 Secretary to accept for disposal depleted uranium
9 pursuant to this subsection, the Secretary shall be
10 required to take title to and possession of such de-
11pleted uranium at an existing DUF6 storage facil-
12ity.”.

13 SEC. 312. The Department of Energy may use the
14 funds appropriated by this Act to undertake any procure-
15ment action necessary to achieve its small business con-
16tracting goals set forth in Section (g) of the Small Busi-
17ness Act, 15 U.S.C. § 644(g): *Provided*, That, none of the
18funds appropriated by this Act may be used by the De-
19partment of Energy for procurement actions resulting
20from the break-out of requirements from current facility
21management and operating contracts unless, consistent
22with requirements of Subpart 19.4 of the Federal Acquisi-
23tion Regulation, the Secretary of Energy or his duly au-
24thorized designee formally requests, considers, and ren-
25ders an appropriate decision on the views of the Small

1 Business Administration Breakout Procurement Center
2 Representative or the Representative's duly authorized
3 designee concerning cost effectiveness, mission perform-
4 ance, security, safety, small business participation, and
5 other legitimate acquisition objectives of procurement ac-
6 tions at issue. No later than April 1, 2005, the Secretary
7 of Energy shall submit a report to the Comptroller Gen-
8 eral and to Congress discussing the Secretary's plans re-
9 quired by Section 15(h) of the Small Business Act, 15
10 U.S.C. § 644(h), for meeting the Department's statutory
11 small business contracting goals while taking into account
12 other legitimate acquisition objectives. In preparing the re-
13 port, the Secretary shall request and consider the views
14 of the Administrator of the Small Business Administration
15 and the Director of the Office of Small and Disadvantaged
16 Business Utilization of the Department of Energy. The
17 report shall discuss the Department's policies and activi-
18 ties concerning break-outs of procurement requirements
19 from current management and operating contracts, con-
20 sistent with requirements of this Act, Section 15(h) of the
21 Small Business Act, and Subpart 19.4 of the Federal Ac-
22 quisition Regulations.

23 SEC. 313. None of the funds appropriated by this Act
24 may be used by the Department of Energy to require its
25 management and operating contractors to perform con-

1 tract management, oversight, or administration functions
2 prohibited by Section 7.503 of the Federal Acquisition
3 Regulation in connection with any small business prime
4 contract awarded by the Department of Energy.

5 SEC. 314. None of the funds in this Act may be used
6 to dispose of transuranic waste in the Waste Isolation
7 Pilot Plan which contains concentrations of plutonium in (t
8 excess of 20 percent by weight for the aggregate of any
9 material category on the date of enactment of this Act,
10 or is generated after such date. For the purpose of this
11 section, the material categories of transuranic waste at the
12 Rocky Flats Environmental Technology Site include: (1)
13 ash residues; (2) salt residue; (3) wet residues; (4) direct
14 repackage residues; and (5) scrub alloy as referenced in
15 the "Final Environmental Impact Statement on Manage-
16 ment of Certain Plutonium Residues and Scrub Alloy
17 Stored at the Rocky Flats Environmental Technology
18 Site".

19

TITLE IV

20

INDEPENDENT AGENCIES

21

APPALACHIAN REGIONAL COMMISSION

22

23 For expenses necessary to carry out the programs au-
24 thorized by the Appalachian Regional Development Act of
25 1965, as amended, for necessary expenses for the Federal
Co-Chairman and the alternate on the Appalachian Re-

1 gional Commission, for payment of the Federal share of
2 the administrative expenses of the Commission, including
3 services as authorized by 5 U.S.C. 3109, and hire of pas-
4 senger motor vehicles, \$66,000,000, to remain available
5 until expended.

6 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

7 SALARIES AND EXPENSES

8 For necessary expenses of the Defense Nuclear Fa-
9 cilities Safety Board in carrying out activities authorized
10 by the Atomic Energy Act of 1954, as amended by Public
11 Law 100-456, section 1441, \$20,268,000, to remain
12 available until expended.

13 DELTA REGIONAL AUTHORITY

14 SALARIES AND EXPENSES

15 For necessary expenses of the Delta Regional Author-
16 ity and to carry out its activities, as authorized by the
17 Delta Regional Authority Act of 2000, as amended, not-
18 withstanding sections 382C(b)(2), 382F(d), and 382M(b)
19 of said Act, \$6,048,000, to remain available until ex-
20 pended.

21 DENALI COMMISSION

22 For expenses of the Denali Commission including the
23 purchase, construction and acquisition of plant and capital
24 equipment as necessary and other expenses, \$67,000,000
25 notwithstanding the limitations contained in section

1 306(g) of the Denali Commission Act of 1998,
2 \$2,500,000, to remain available until expended: *Provided*,
3 That of the amounts provided to the Denali Commission,
4 \$5,000,000 is for community showers and washeteria in
5 villages with homes with no running water; \$13,000,000
6 is for the Juneau/Green's Creek/Hoonah Intertie project;
7 \$3,200,000 is for the Swan Lake/Tyee Intertie project;
8 \$5,000,000 is for multi-purpose community facilities in-
9 cluding the Bering Straits Region, Dillingham, Moose
10 Pass, Sterling, Funny River, Eclutna, and Anchor Point;
11 \$10,000,000 is for teacher housing in remote villages such
12 as Savoogna, Allakakaet, Hughes, Huslia, Minto, Nulato,
13 and Ruby where there is limited housing available for
14 teachers; \$10,000,000 is for facilities serving Native elders
15 and senior citizens; and \$5,000,000 is for (1) the Rural
16 Communications service to provide broadcast facilities in
17 communities with no television or radio station, (2) the
18 Public Broadcasting Digital Distribution Network to link
19 rural broadcasting facilities together to improve economies
20 of scale, share programming, and reduce operating costs
21 and (3) rural public broadcasting facilities and equipment
22 upgrades.

1 NUCLEAR REGULATORY COMMISSION

2 SALARIES AND EXPENSES

3 For necessary expenses of the Commission in car-
4 rying out the purposes of the Energy Reorganization Act
5 of 1974, as amended, and the Atomic Energy Act of 1954,
6 as amended, including official representation expenses
7 (not to exceed \$15,000), and purchase of promotional
8 items for use in the recruitment of individuals for employ-
9 ment, \$662,777,000, to remain available until expended:
10 *Provided*, That of the amount appropriated herein,
11 \$69,050,000 shall be derived from the Nuclear Waste
12 Fund: *Provided further*, That revenues from licensing fees,
13 inspection services, and other services and collections esti-
14 mated at \$534,354,⁹300 in fiscal year 2005 shall be re-
15 tained and used for necessary salaries and expenses in this
16 account, notwithstanding 31 U.S.C. 3302, and shall re-
17 main available until expended: *Provided further*, That the
18 sum herein appropriated shall be reduced by the amount
19 of revenues received during fiscal year 2005 so as to result
20 in a final fiscal year 2005 appropriation estimated at not
21 more than \$128,423,000.

22 OFFICE OF INSPECTOR GENERAL

23 For necessary expenses of the Office of Inspector
24 General in carrying out the provisions of the Inspector
25 General Act of 1978, as amended, \$7,518,000, to remain

1 available until expended: *Provided*, That revenues from li-
2 censing fees, inspection services, and other services and
3 collections estimated at \$6,766,200 in fiscal year 2005
4 shall be retained and be available until expended, for nec-
5 essary salaries and expenses in this account, notwith-
6 standing 31 U.S.C. 3302: *Provided further*, That the sum
7 herein appropriated shall be reduced by the amount of
8 revenues received during fiscal year 2005 so as to result
9 in a final fiscal year 2005 appropriation estimated at not
10 more than \$751,800.

11 NUCLEAR WASTE TECHNICAL REVIEW BOARD

12 SALARIES AND EXPENSES

13 For necessary expenses of the Nuclear Waste Tech-
14 nical Review Board, as authorized by Public Law 100-
15 203, section 5051, \$3,177,000, to be derived from the Nu-
16 clear Waste Fund, and to remain available until expended.

17 TITLE V

18 GENERAL PROVISIONS

19 SEC. 501. None of the funds appropriated by this Act
20 may be used in any way, directly or indirectly, to influence
21 congressional action on any legislation or appropriation
22 matters pending before Congress, other than to commu-
23 nicate to Members of Congress as described in 18 U.S.C.
24 1913.

1 SEC. 502. None of the funds made available in this
2 Act may be transferred to any department, agency, or in-
3 strumentality of the United States Government, except
4 pursuant to a transfer made by, or transfer authority pro-
5 vided in, this Act or any other appropriation Act.

6 SEC. 503. None of the funds made available in this
7 Act may be used to deny requests for the public release
8 of documents or evidence obtained through or in the West-
9 ern Energy Markets: Enron Investigation (Docket No.
10 PA02-2), the California Refund case (Docket No. EL00-
11 95), the Anomalous Bidding Investigation (Docket No.
12 IN03-10), or the Physical Withholding Investigation.

13 SEC. 504. EXTENSION OF PROHIBITION OF OIL AND
14 GAS DRILLING IN THE GREAT LAKES. Section 503 of the
15 Energy and Water Development Appropriations Act,
16 2002, (115 Stat. 512), as amended, is amended by strik-
17 ing “2005” and inserting in lieu thereof “2007”.

18 SEC. 505. The Secretary of the Army is hereby au-
19 thorized, without further appropriation, to transfer and
20 advance funds to the Administrator of the Bonneville
21 Power Administration for the purposes necessary to carry
22 out joint activities in connection with Section 2406 of the
23 Energy Policy Act of 1992.

24 SEC. 506. VOTING METHOD FOR DELTA REGIONAL
25 AUTHORITY. Section 382B(c)(1) of the Consolidated

1 Farm and Rural Development Act (7 U.S.C. 2009aa—

2 1(c)(1)) is amended—

3 (1) in subparagraph (A), by striking “2004”

4 and inserting “2008”; and

5 (2) in subparagraph (B), by striking “2005”

6 and inserting “2009”.

7 ~~This Act may be cited as the “Energy and Water De-~~

8 ~~velopment Appropriations Act, 2005”.~~

1 **TITLE VI—REFORM OF THE**
2 **BOARD OF DIRECTORS OF**
3 **THE TENNESSEE VALLEY AU-**
4 **THORITY**

5 **SEC. 6 01. CHANGE IN COMPOSITION, OPERATION, AND**
6 **DUTIES OF THE BOARD OF DIRECTORS OF**
7 **THE TENNESSEE VALLEY AUTHORITY.**

8 The Tennessee Valley Authority Act of 1933 (16
9 U.S.C. 831 et seq.) is amended by striking section 2 and
10 inserting the following:

11 **“SEC. 2. MEMBERSHIP, OPERATION, AND DUTIES OF THE**
12 **BOARD OF DIRECTORS.**

13 “(a) MEMBERSHIP.—

14 “(1) APPOINTMENT.—The Board of Directors
15 of the Corporation (referred to in this Act as the
16 ‘Board’) shall be composed of 9 members appointed
17 by the President by and with the advice and consent
18 of the Senate, at least 7 of whom shall be a legal
19 resident of the service area of the Corporation.

20 “(2) CHAIRMAN.—The members of the Board
21 shall select 1 of the members to act as chairman of
22 the Board.

23 “(b) QUALIFICATIONS.—To be eligible to be ap-
24 pointed as a member of the Board, an individual—

25 “(1) shall be a citizen of the United States;

~~2~~

1 “(2) shall have management expertise relative
2 to a large for-profit or nonprofit corporate, govern-
3 ment, or academic structure;

4 “(3) shall not be an employee of the Corpora-
5 tion;

6 “(4) shall make full disclosure to Congress of
7 any investment or other financial interest that the
8 individual holds in the energy industry; and

9 “(5) shall affirm support for the objectives and
10 missions of the Corporation, including being a na-
11 tional leader in technological innovation, low-cost
12 power, and environmental stewardship.

13 “(c) RECOMMENDATIONS.—In appointing members
14 of the Board, the President shall—

15 “(1) consider recommendations from such pub-
16 lic officials as—

17 “(A) the Governors of States in the service
18 area;

19 “(B) individual citizens;

20 “(C) business, industrial, labor, electric
21 power distribution, environmental, civic, and
22 service organizations; and

23 “(D) the congressional delegations of the
24 States in the service area; and

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3

1 “(2) seek qualified members from among per-
2 sons who reflect the diversity, including the geo-
3 graphical diversity, and needs of the service area of
4 the Corporation.

5 “(d) TERMS.—

6 “(1) IN GENERAL.—A member of the Board
7 shall serve a term of 5 years. A member of the
8 Board whose term has expired may continue to serve
9 after the member’s term has expired until the date
10 on which a successor takes office, except that the
11 member shall not serve beyond the end of the ses-
12 sion of Congress in which the term of the member
13 expires.

14 “(2) VACANCIES.—A member appointed to fill a
15 vacancy on the Board occurring before the expira-
16 tion of the term for which the predecessor of the
17 member was appointed shall be appointed for the re-
18 mainder of that term.

19 “(e) QUORUM.—

20 “(1) IN GENERAL.—Five of the members of the
21 Board shall constitute a quorum for the transaction
22 of business.

23 “(2) VACANCIES.—A vacancy on the Board
24 shall not impair the power of the Board to act.

25 “(f) COMPENSATION.—

A

1 “(1) IN GENERAL.—A member of the Board
2 shall be entitled to receive—

3 “(A) a stipend of—

4 “(i) \$45,000 per year; or

5 “(ii)(I) in the case of the chairman of
6 any committee of the Board created by the
7 Board, \$46,000 per year; or

8 “(II) in the case of the chairman of
9 the Board, \$50,000 per year; and

10 “(B) travel expenses, including per diem in
11 lieu of subsistence, in the same manner as per-
12 sons employed intermittently in Government
13 service under section 5703 of title 5, United
14 States Code.

15 “(2) ADJUSTMENTS IN STIPENDS.—The
16 amount of the stipend under paragraph (1)(A)(i)
17 shall be adjusted by the same percentage, at the
18 same time and manner, and subject to the same lim-
19 itations as are applicable to adjustments under sec-
20 tion 5318 of title 5, United States Code.

21 “(g) DUTIES.—

22 “(1) IN GENERAL.—The Board shall—

23 “(A) establish the broad goals, objectives,
24 and policies of the Corporation that are appro-
25 priate to carry out this Act;

1 “(B) develop long-range plans to guide the
2 Corporation in achieving the goals, objectives,
3 and policies of the Corporation and provide as-
4 sistance to the chief executive officer to achieve
5 those goals, objectives, and policies;

6 “(C) ensure that those goals, objectives,
7 and policies are achieved;

8 “(D) approve an annual budget for the
9 Corporation;

10 “(E) adopt and submit to Congress a con-
11 flict-of-interest policy applicable to members of
12 the Board and employees of the Corporation;

13 “(F) establish a compensation plan for em-
14 ployees of the Corporation in accordance with
15 subsection (i);

16 “(G) approve all compensation (including
17 salary or any other pay, bonuses, benefits, in-
18 centives, and any other form of remuneration)
19 of all managers and technical personnel that re-
20 port directly to the chief executive officer (in-
21 cluding any adjustment to compensation);

22 “(H) ensure that all activities of the Cor-
23 poration are carried out in compliance with ap-
24 plicable law;

1 “(I) create an audit committee, composed
2 solely of Board members independent of the
3 management of the Corporation, which shall—

4 “(i) in consultation with the inspector
5 general of the Corporation, recommend to
6 the Board an external auditor;

7 “(ii) receive and review reports from
8 the external auditor of the Corporation and
9 inspector general of the Corporation; and

10 “(iii) make such recommendations to
11 the Board as the audit committee con-
12 siderers necessary;

13 “(J) create such other committees of
14 Board members as the Board considers to be
15 appropriate;

16 “(K) conduct such public hearings as it
17 deems appropriate on issues that could have a
18 substantial effect on—

19 “(i) the electric ratepayers in the serv-
20 ice area; or

21 “(ii) the economic, environmental, so-
22 cial, or physical well-being of the people of
23 the service area;

24 “(L) establish the electricity rates charged
25 by the Corporation; and

1 “(M) engage the services of an external
2 auditor for the Corporation.

3 “(2) MEETINGS.—The Board shall meet at
4 least 4 times each year.

5 “(h) CHIEF EXECUTIVE OFFICER.—

6 “(1) APPOINTMENT.—The Board shall appoint
7 a person to serve as chief executive officer of the
8 Corporation.

9 “(2) QUALIFICATIONS.—

10 “(A) IN GENERAL.—To serve as chief exec-
11 utive officer of the Corporation, a person—

12 “(i) shall have senior executive-level
13 management experience in large, complex
14 organizations;

15 “(ii) shall not be a current member of
16 the Board or have served as a member of
17 the Board within 2 years before being ap-
18 pointed chief executive officer; and

19 “(iii) shall comply with the conflict-of-
20 interest policy adopted by the Board.

21 “(B) EXPERTISE.—In appointing a chief
22 executive officer, the Board shall give particular
23 consideration to appointing an individual with
24 expertise in the electric industry and with
25 strong financial skills.

1 “(3) TENURE.—The chief executive officer shall
2 serve at the pleasure of the Board.

3 “(i) COMPENSATION PLAN.—

4 “(1) IN GENERAL.—The Board shall approve a
5 compensation plan that specifies all compensation
6 (including salary or any other pay, bonuses, benefits,
7 incentives, and any other form of remuneration) for
8 the chief executive officer and employees of the Cor-
9 poration.

10 “(2) ANNUAL SURVEY.—The compensation plan
11 shall be based on an annual survey of the prevailing
12 compensation for similar positions in private indus-
13 try, including engineering and electric utility compa-
14 nies, publicly owned electric utilities, and Federal,
15 State, and local governments.

16 “(3) CONSIDERATIONS.—The compensation
17 plan shall provide that education, experience, level of
18 responsibility, geographic differences, and retention
19 and recruitment needs will be taken into account in
20 determining compensation of employees.

21 “(4) POSITIONS AT OR BELOW LEVEL IV.—The
22 chief executive officer shall determine the salary and
23 benefits of employees whose annual salary is not
24 greater than the annual rate payable for positions at

1 level IV of the Executive Schedule under section
2 5315 of title 5, United States Code.

3 “(5) POSITIONS ABOVE LEVEL IV.—On the rec-
4 ommendation of the chief executive officer, the
5 Board shall approve the salaries of employees whose
6 annual salaries would be in excess of the annual rate
7 payable for positions at level IV of the Executive
8 Schedule under section 5315 of title 5, United
9 States Code.”.

10 **SEC. 602. CHANGE IN MANNER OF APPOINTMENT OF**
11 **STAFF.**

12 Section 3 of the Tennessee Valley Authority Act of
13 1933 (16 U.S.C. 831b) is amended—

14 (1) by striking the first undesignated paragraph
15 and inserting the following:

16 “(a) APPOINTMENT BY THE CHIEF EXECUTIVE OF-
17 FICER.—The chief executive officer shall appoint, with the
18 advice and consent of the Board, and without regard to
19 the provisions of the civil service laws applicable to officers
20 and employees of the United States, such managers, as-
21 sistant managers, officers, employees, attorneys, and
22 agents as are necessary for the transaction of the business
23 of the Corporation.”; and

24 (2) by striking “All contracts” and inserting
25 the following:

1 “(b) WAGE RATES.—All contracts”.

2 **SEC. 6 03. CONFORMING AMENDMENTS.**

3 (a) The Tennessee Valley Authority Act of 1933 (16
4 U.S.C. 831 et seq.) is amended—

5 (1) by striking “board of directors” each place
6 it appears and inserting “Board of Directors”; and

7 (2) by striking “board” each place it appears
8 and inserting “Board”.

9 (b) Section 9 of the Tennessee Valley Authority Act
10 of 1933 (16 U.S.C. 831h) is amended—

11 (1) by striking “The Comptroller General of the
12 United States shall audit” and inserting the fol-
13 lowing:

14 “(c) AUDITS.—The Comptroller General of the
15 United States shall audit”; and

16 (2) by striking “The Corporation shall deter-
17 mine” and inserting the following:

18 “(d) ADMINISTRATIVE ACCOUNTS AND BUSINESS
19 DOCUMENTS.—The Corporation shall determine”.

20 (c) Title 5, United States Code, is amended—

21 (1) in section 5314, by striking “Chairman,
22 Board of Directors of the Tennessee Valley Author-
23 ity.”; and

11

1 (2) in section 5315, by striking “Members,
2 Board of Directors of the Tennessee Valley Author-
3 ity.”.

4 SEC. 6 04. APPOINTMENTS; EFFECTIVE DATE; TRANSI-
5 TION.

6 (a) APPOINTMENTS.—

7 (1) IN GENERAL.—As soon as practicable after
8 the date of enactment of this Act, the President
9 shall submit to the Senate nominations of 6 persons
10 to serve as members of the Board of Directors of the
11 Tennessee Valley Authority in addition to the mem-
12 bers serving on the date of enactment of this Act.

13 (2) INITIAL TERMS.—Notwithstanding section
14 2(d) of the Tennessee Valley Authority Act of 1933
15 (as amended by this title), in making the appoint-
16 ments under paragraph (1), the President shall
17 appoint—

18 (A) 2 members for a term to expire on
19 May 18, 2007;

20 (B) 2 members for a term to expire on
21 May 18, 2009; and

22 (C) 2 members for a term to expire on
23 May 18, 2011.

24 (b) EFFECTIVE DATE.—The amendments made by
25 this title take effect on the later of—

1 (1) the date on which at least 3 persons nomi-
2 nated under subsection (a) take office; or

3 (2) May 18, 2005.

4 (c) SELECTION OF CHAIRMAN.—The Board of Direc-
5 tors of the Tennessee Valley Authority shall select 1 of
6 the members to act as chairman of the Board not later
7 than 30 days after the effective date specified in sub-
8 section (b).

9 (d) CONFLICT-OF-INTEREST POLICY.—The Board of
10 Directors of the Tennessee Valley Authority shall adopt
11 and submit to Congress a conflict-of-interest policy, as re-
12 quired by section 2(g)(1)(E) of the Tennessee Valley Au-
13 thority Act of 1933 (as amended by this title), as soon
14 as practicable after the effective date specified in sub-
15 section (b).

16 (e) TRANSITION.—A person who is serving as a mem-
17 ber of the board of directors of the Tennessee Valley Au-
18 thority on the date of enactment of this Act—

19 (1) shall continue to serve until the end of the
20 current term of the member; but

21 (2) after the effective date specified in sub-
22 section (b), shall serve under the terms of the Ten-
23 nessee Valley Authority Act of 1933 (as amended by
24 this title).

This ~~Act~~ may be cited as the "Energy and Water Development Appropriations Act, 2005".

(Division)